

**Federal Defenders
OF NEW YORK, INC.**

Southern District
52 Duane Street-10th Floor, New York, NY 10007
Tel: (212) 417-8700 Fax: (212) 571-0392

David E. Patton
Executive Director
and Attorney-in-Chief

Southern District of New York
Jennifer L. Brown
Attorney-in-Charge

September 15, 2022

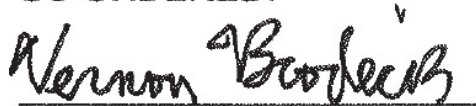
BY ECF

Honorable Vernon S. Broderick
United States District Judge
Southern District of New York

The defense is ordered to serve a copy of this letter motion on the government and notify them of this action. Once the government has been properly notified, they are ordered to respond within 14 days either in support or opposition of the motion.

Re: United States v. Joseph Zapatero
21 Cr. 490 (VSB)

SO ORDERED:


HON. VERNON S. BRODERICK
UNITED STATES DISTRICT JUDGE

09/16/2022

Honorable Judge Broderick:

I write to request that the Court order early termination of Joseph Zapatero's supervised release. Early termination would be consistent with the 18 U.S.C. § 3553(a) sentencing factors and in the interests of justice.

Background

Joseph Zapatero was federally prosecuted for a drug offense in the Southern District of New York in 2009.¹ *See* No. 09 Cr. 915 (JSR) (S.D.N.Y). In connection with that case, Mr. Zapatero pled guilty to attempting to deal cocaine to confidential government sources. He was initially released on bail

¹ The SDNY Federal Defenders represented Mr. Zapatero in connection with this prosecution, so he reached out to this office to request assistance with this application. I have conferred with Supervising Probation Officer Marcela L. Tavarez, who informed me that Mr. Zapatero does not meet the Probation Office's criteria for a request for early termination, so Probation would not make/support this application.

SEP. 15, 2022

PAGE 2 OF 3

and entered custody after his guilty plea, in December 2009. He was sentenced to 52 months in prison and 3 years of supervised release.

While Mr. Zapatero was incarcerated, he was also prosecuted for earlier drug related conduct in the District of Vermont: Vermont federal authorities alleged that between 2006 and 2009, Mr. Zapatero conspired to distribute crack. *See* No. 09 Cr. 143 (WKS) (D. Vt.). In May 2011, he pled guilty in connection with this Vermont case and was sentenced to 168 months in prison and 5 years of supervised release.

In December 2020, Mr. Zapatero moved for a reduction of sentence and immediate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), in light of the ongoing COVID-19 pandemic. *See* No. 09 Cr. 143 (WKS), ECF Dkt. 160 (D. Vt. Dec. 9, 2020). Mr. Zapatero argued that his obesity, asthma, hypertension, and other personal characteristics put him at greater risk from COVID. In addition, by that point, he had already served over 11 years in prison.

Mr. Zapatero had an exemplary prison record. While in BOP custody, he had only one, minor infraction. He completed numerous educational and therapeutic programs, including drug education, business and finance classes, computer basics, and health and fitness related classes. Mr. Zapatero's BOP record is attached to his Vermont application, ECF Dkt. 160.

The Vermont district court granted this motion and ordered Mr. Zapatero resentenced to time served and 5 years of supervised release. He was released from custody on January 27, 2021.

Mr. Zapatero is from New York, and he returned to this area to live. In August 2021, Vermont officially transferred jurisdiction over Mr. Zapatero's supervised release to the Southern District of New York and his case was assigned to this Court. *See* No. 21 Cr. 490 (VSB).

Today Mr. Zapatero lives in Manhattan with his mother and other family members. When he was initially released from prison, he found work through a temp agency. For around the last year, he has been working as a driver for Uber Eats.

SEP. 15, 2022

PAGE 3 OF 3

Legal Standard

A court may “terminate a term of supervised release and discharge the defendant ... any time after the expiration of one year of supervised release,” if the court “is satisfied that such action is warranted by the conduct of the defendant” and in “the interest of justice,” considering the relevant 18 U.S.C. § 3553(a) sentencing factors. 18 U.S.C. § 3583(e)(1).

Discussion

Mr. Zapatero requests that the Court order early termination of his supervised release. Mr. Zapatero’s last criminal conduct was in 2009, now around 13 years ago. He served a significant prison sentence. During the last decade, throughout his prison term and his time in the community so far, Mr. Zapatero has demonstrated his complete rehabilitation. He has refrained from criminal conduct, complied with the requirements of his supervision, engaged with programming, and found work to support himself.

Ending Mr. Zapatero’s supervision would be in the interests of justice. Supervision helped him make the transition from prison back into his community but, at this point, he is not receiving any programming or other assistance through the Probation Department. He has shown that he has changed; that he has been sufficiently deterred from criminal conduct; and that he can live in the community without issues. Moreover, supervision creates reporting obligations and travel limitations that Mr. Zapatero feels constrain him from truly moving forward with his life.

For these reasons, we ask that the Court terminate Mr. Zapatero’s supervised release.

Respectfully submitted,
/s/ Sarah Baumgartel
Sarah Baumgartel
Assistant Federal Defender
Tel.: (212) 417-8772

cc: P.O. Marcela L. Tavaréz (by email)